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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,815	02/27/2004	Kenneth W. Baun	MIC.025A	5653
20995 7590 08/22/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER KO, TONY	
			ART UNIT	PAPER NUMBER
			2878	
			NOTIFICATION DATE	DELIVERY MODE
			08/22/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary	Application No. 10/789,815	Applicant(s) BAUN, KENNETH W.	
	Examiner Tony Ko	Art Unit 2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,7-14,17-25,27, 29-34 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,7-14,17-25,27,29-34 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/12/07 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 8, 13, 14, 17, 18, 24, 25, 29-34, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (WO 03/096216) in view of Ferrett (U.S. 5,408,359).

4. Regarding claims 1, 14, 25 and 31, Beck discloses (Fig. 1) a handheld vision device for viewing a subject in low light condition and method, wherein a reduced portion of a user's face proximate an eye is illuminated, the night vision device comprising: a housing (10) having optics (30) to collect light into the housing (10); an

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eye cup ([003]); an infrared light source (20) capable of illuminating an object to be viewed by the user through the night vision device; an imager (32) positioned to be illuminated by the collected light, the imager configured to generate an electrical signal representative of an intensity enhanced (through 43, automatic gain control) image of the collected light; and a digital display (122) disposed within the housing, the digital display configured to display the intensity enhanced image, wherein the digital display is viewable through the eyepiece.

5. Regarding claims 1, 14, 25 and 31, Beck does not teach an eyepiece comprising a flexible eye cup including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a face of the user by the night vision device. Regarding claim 1, 14, 25 and 31, Ferrett discloses (Figs. 1-4) an eyepiece (28) comprising a flexible eye cup (abstract) including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a face of the user by the night vision device (abstract). It is well known to have eyepiece comprising flexible eye cup including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a face of the user by the night vision device. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have eyepieces comprising flexible eye cup including a pliable member capable of substantially form fitting an eye socket of a user thereby being capable of substantially precluding illumination of a face of the user by the night

vision device to reduce the likelihood of the user to be identified by others on a battle field.

6. Regarding claim 4, Beck discloses the digital display comprises a liquid crystal display ([19]).

7. Regarding claims 8 and 17, Beck discloses a user controller configured to adjust the intensity of the light source (46, [53]).

8. Regarding claim 12, Beck discloses the filter is configured to reduce the amount of light projected through the eyepiece ([53]). (for example, using a blue filter to eliminate red light)

9. Regarding claim 13, Beck discloses the brightness of the digital display is adjustable (57).

10. Regarding claim 18, Beck discloses selectively adjusting the gain of the screen (110).

11. Regarding claims 24 and 29, Beck discloses the image data through the first optic comprises: collecting light through an objective lens (30); and focusing the collected light onto an optical sensor (32).

12. Regarding claim 30, Beck discloses means (100) for formatting the signal for display.

13. Regarding claim 32, Beck discloses the sensor is monochromatic ([55], line 20).

14. Regarding claim 33, Beck discloses the sensor is selected from the group comprising a charge coupled device (CCD) and a complementary metal oxide semiconductor (CMOS) device ([54], line 10).

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15. Regarding claim 34, Beck discloses the sensor is a digital camera.
16. Regarding claim 36, Beck discloses the internal video display module is a liquid crystal display ([65], line 23).
17. Regarding claim 37, Beck discloses the internal video display module is monochromatic. ([65], lines 22-25).
18. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (WO 03/096216) in view of Ferrett.
19. Regarding claim 7, Beck in view of Ferrett discloses the use of an infrared light emitting diode ([46]). Beck in view of Ferrett does not teach use an array of infrared light emitting diodes. It is well known to use an array of infrared light emitting diodes to improve reliability. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use multiple light emitting diodes to ensure the reliability of the device.
20. Claims 9, 19, 27 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (WO 03/096216) in view of Ferrett.
21. Regarding claims 9, 12, 19, 27 and 38, Beck in view of Ferrett discloses a combination of various filters (155) disposed between the digital display and the eyepiece. Beck does not teach color filters (155) are interchangeable. Beck further discloses the filter (i.e. blue filter) is configured to reduce the amount of light (i.e. red light) projected through the eyepiece. Beck teaches filters (infrared) are interchangeable ([53], lines 25-30). It is well known to have interchangeable filters to update the filter to help the user to view better as the environment changes. It would

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have been obvious to a person of ordinary skill in the art at the time of the invention to interchange the filters (155) to establish the effects described by Beck (see [66]).

22. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Ferrett further in view of Gibson (H1154).

23. Regarding claims 10 and 20, Beck in view of Ferrett discloses the invention set forth above. Beck in view of Ferrett does not teach the filter is configured to reduce night blindness. Gibson discloses the use of IR blue or red filter to enhance visual activity. It is well known to have the filter configured to reduce night blindness. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have interchangeable filter configured to reduce night blindness to help the users to view better in low light condition as described in Gibson.

24. Claims 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck in view of Ferrett further in view of Vick (U.S. Patent 4,896,218)

25. Regarding claim 11 and 21, Beck in view of Ferrett discloses the invention set forth above. Beck in view of Ferrett does not teach the filter is configured to enhance the contrast of the digital display. Vick teaches using filters to enhance contrast. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use filter to enhance contrast to provide the user with better visual quality.

26. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck (WO 03/096216) in view of Ferrett (U.S. 5,408,359) further in view of Applicant Admitted Prior Art (AAPA).

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27. Regarding claims 22 and 23, Beck in view of Ferrett does not teach to provide the enhanced image data to an external device to remotely display the image. AAPA teaches (Description of the Related Art [001-003]) it is known in the night vision system to transmit amplified video images to remotely located video screens. It would have been obvious to a person of ordinary skill in the art at the time of the invention to transmit amplified video images to remotely located video screens for remotely located personnel to access the situation.

Response to Arguments

28. Applicant's arguments with respect to claims 1,4,7-14,17-25,27, 29-34 and 36-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Ko whose telephone number is 571-272-1926.

The examiner can normally be reached on Monday-Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TKO



THANH X. LUU
PRIMARY EXAMINER